

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN ASSEMBLY JULY 12, 2007

AMENDED IN SENATE JUNE 18, 2007

AMENDED IN SENATE APRIL 24, 2007

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 586

**Introduced by Senator Dutton
(Principal coauthor: Senator Correa)**

February 22, 2007

An act to add Section 53545.9 to, and to add Chapter 8.5 (commencing with Section 50705) to Part 2 of Division 31 of, the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 586, as amended, Dutton. Affordable Housing Innovation Fund: Affordable Housing Revolving Development and Acquisition Program.

Existing law, the Housing and Emergency Shelter Trust Fund Act of 2006, authorizes the issuance of bonds in the amount of \$2,850,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds are required to be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. The act establishes the Housing and Emergency Shelter Trust Fund of 2006 in the State Treasury and requires the sum of \$1,500,000,000 to be deposited in the Affordable Housing Account, which the act establishes in the fund. The act continuously appropriates

the money in the account in accordance with a specified schedule that requires, among other things, the transfer of the sum of \$100,000,000 to the Affordable Housing Innovation Fund, which the act establishes in the State Treasury, to be administered by the Department of Housing and Community Development and expended for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing, and to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing.

This bill would establish the Affordable Housing Revolving Development and Acquisition Program under the administration of the department. The bill would authorize applicants under the program to apply for loans to purchase real property for the development or preservation of housing affordable to low-income households and would require applicants to demonstrate certain qualification factors. The bill would require the department to adopt guidelines and regulations establishing the minimum criteria required of the fund manager and applicants, as well as a point system for prioritizing requests in the event that requests exceed the funds available for the program in any given year. The guidelines and regulations would give priority to applicants that ~~proposed~~ *propose* development projects with the greatest level of affordability.

The bill would require the department to issue a request for qualification to select a private sector entity to manage the Loan Fund. The bill would establish criteria that the fund manager must meet and would also require applicants for the fund manager position to submit a business plan that addresses appropriate financial and internal controls as well as a description of how the lender would close loans quickly.

The bill would require the funds in the Affordable Housing Innovation Fund to be allocated in the amount of \$50,000,000 for the Affordable Housing Revolving Development and Acquisition Program, of which \$25,000,000 would be made available to the Loan Fund and \$25,000,000 would be made available to the Practitioner Fund; \$5,000,000 for the Construction Liability Insurance Reform Pilot Program, which this bill would establish within the department; \$35,000,000 for a local housing trust fund matching grant program established under a specified provision of existing law; and \$5,000,000 for the Mobilehome Park Resident Ownership Program established under a specified provision of existing law. The bill would make an appropriation by authorizing

the funds in the continuously appropriated fund to be expended for these additional purposes.

The bill would require the department to grant preference to a housing trust fund that agrees to expend more than 65% of state funds to a specified first-time homebuyers' program and to set aside funding for a specified 36-month period for newly established housing trust funds that are in a county with a population of less than 425,000 persons when awarding the \$35,000,000 under the local housing trust fund matching grant program. *The bill would also require the department to make available 50% of this grant money exclusively for newly established housing trust funds.*

The bill would establish the School Housing Program under the administration of the department *and would make an appropriation by requiring the department to make available for the program the amount of \$5,000,000 from the Affordable Housing Innovation Fund.* The purpose of the program would be to establish a pilot program that provides assistance to school districts and community college districts attempting to attract and retain district employees, *as well as the provision of student housing for students from lower income households, through the provision of on-campus housing.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 that the Housing and Emergency Shelter Trust Fund Act of 2006
- 3 allocates the amount of one hundred million dollars (\$100,000,000)
- 4 to the Affordable Housing Innovation Fund established in the State
- 5 Treasury under subparagraph (F) of paragraph (1) of subdivision
- 6 (a) of Section 53545 of the Health and Safety Code and states that
- 7 the expenditure of those funds is subject to the enactment of a
- 8 subsequent statute approved by a $\frac{2}{3}$ vote of each house of the
- 9 Legislature.
- 10 (b) Accordingly, it is the intent of the Legislature in enacting
- 11 this act to program the funds made available under subparagraph
- 12 (F) of paragraph (1) of subdivision (a) of Section 53545 of the

1 Health and Safety Code from the Affordable Housing Innovation
2 Fund.

3 SEC. 2. Chapter 8.5 (commencing with Section 50705) is added
4 to Part 2 of Division 31 of the Health and Safety Code, to read:

5
6 CHAPTER 8.5. AFFORDABLE HOUSING REVOLVING
7 DEVELOPMENT AND ACQUISITION PROGRAM
8

9 50705. (a) The Affordable Housing Revolving Development
10 and Acquisition Program is hereby established for the purpose of
11 funding the acquisition of property to develop or preserve
12 affordable housing. The program will be comprised of a Loan Fund
13 and a Practitioner Fund.

14 (b) The department shall adopt guidelines and regulations for
15 the operation of the program and may administer the program
16 under those guidelines for 24 months after the date of adoption of
17 the guidelines. The guidelines ~~and regulations~~ shall not be subject
18 to the requirements of Chapter 3.5 (commencing with Section
19 11340) *of Part 1* of Division 3 of Title 2 of the Government Code.

20 50706. (a) (1) The department shall issue a request for
21 qualification to select a private sector entity to manage the Loan
22 Fund for a period of five years, and the agreement may be extended
23 in additional five-year increments. The selected fund manager ~~will~~
24 *shall* be responsible for reviewing and approving loan applications,
25 originating and servicing loans, and establishing terms and
26 conditions for loan applications. The fund manager shall meet all
27 of the following criteria:

28 (A) Be a nonprofit lender with experience making similar loans
29 in this state.

30 (B) Have originated and serviced loans in the aggregate amount
31 of not less than thirty million dollars (\$30,000,000) that were used
32 to develop or acquire affordable housing, including at least ten
33 million dollars (\$10,000,000) or more in acquisition loans.

34 (C) Have at least twenty-five million dollars (\$25,000,000) of
35 its own capital invested in loans to affordable housing developers
36 whose characteristics are similar to the criteria the fund manager
37 will be implementing under the new gap acquisition fund.

38 (D) Be the originator of loans in the aggregate amount of
39 twenty-five million dollars (\$25,000,000) or more using bank or
40 other investor capital.

1 (2) Applicants for fund manager shall submit a detailed business
2 plan describing how the entity intends to meet the requirements
3 of the Loan Fund. The business plan shall include a description of
4 appropriate financial and internal controls and underwriting
5 standards and procedures. The plan shall also demonstrate how
6 the lender will close loans quickly.

7 (b) Applicants may apply to the fund manager for loans to
8 purchase real property for the development or preservation of
9 housing affordable to low-income households. Loans made under
10 this section shall be for a maximum term of five years.

11 (c) Applicants shall demonstrate all of the following:

12 (1) The support of the local government in which the real
13 property is located for the proposed development project. Support
14 may be demonstrated through a letter from the governing board
15 or the manager of the housing or community development
16 department.

17 (2) Availability of additional funds equal to three times the loan
18 amount.

19 (3) Sufficient organizational stability and capacity to carry out
20 the proposed development project for which the property is being
21 purchased. Capacity may be demonstrated by substantial successful
22 experience performing similar activities, or through other means
23 acceptable to the department.

24 (4) Completion of not less than five housing development
25 projects, with each project having not less than 40 percent of the
26 units sold *as at an* affordable housing cost, as defined in Section
27 50052.5, or rented at an affordable rent, as defined by Section
28 50053.

29 ~~(d) The guidelines and regulations shall establish the minimum~~
30 ~~criteria required of the fund manager and applicants, as well as a~~
31 ~~point system for prioritizing requests in the event that requests~~
32 ~~exceed the funds available for the program in any given year. The~~
33 ~~guidelines and regulations shall give priority to applicants that~~
34 ~~propose development projects with the greatest level of~~
35 ~~affordability. The guidelines and regulations shall also provide~~
36 ~~that, in the event that the property is sold or transferred for purposes~~
37 ~~other than affordable housing, any equity not originally contributed~~
38 ~~by the borrower shall return to the state for the purposes of this~~
39 ~~program.~~

1 (d) The guidelines and regulations, at a minimum, shall do all
2 of the following:

3 (1) Establish the minimum criteria required of the fund manager
4 and applicants.

5 (2) Establish a point system for prioritizing requests in the event
6 that requests exceed the funds available for the program in any
7 given year.

8 (3) Give priority to applicants that propose development projects
9 with the greatest level of affordability.

10 (4) Provide that any equity not originally contributed by the
11 borrower shall return to the state for the purposes of this program
12 if the property is sold or transferred for purposes other than
13 affordable housing.

14 (5) Establish a reasonable fund manager administrative fee.

15 (e) Funds not lent by the fund manager within 48 months after
16 availability to the fund manager shall be disencumbered and
17 transferred to the Self-Help Housing Fund established under
18 Section 50697.1, to be expended for the purposes of the CalHome
19 Program established under Chapter 6 (commencing with Section
20 50650).

21 50707. (a) The department shall issue a request for
22 qualification to select ~~a nonprofit entity that qualifies one or more~~
23 ~~nonprofit entities that qualify~~ under Section 501(c)(3) of the
24 Internal Revenue Code to ~~loan~~ borrow moneys from the
25 Practitioner Fund to purchase real property for the development
26 or preservation of housing affordable to low- and moderate-income
27 households. The selection of ~~the entity shall be made by one or~~
28 ~~more nonprofit entities that qualify shall be made by the~~
29 ~~department, based on the review and recommendation of the~~
30 ~~department's Loan and Grant Committee. The loan from the~~
31 ~~Practitioner Fund will be for a maximum of five years.~~

32 (b) The entity *or entities* selected pursuant to subdivision (a)
33 shall demonstrate all of the following:

34 (1) Operation as a nonprofit entity that qualifies under Section
35 501(c)(3) of the Internal Revenue Code with housing development
36 experience in this state and a minimum of 25 employees.

37 (2) Availability of additional funds of at least three times the
38 loan amount.

39 (3) Completion of not less than ~~3,000~~ 2,500 total housing units,
40 with each housing development project having a majority of its

units affordable to low- and moderate-income families, as defined in Section 50052.5 or 50053. For purposes of this requirement, the applicant shall be the developer of record with primary day-to-day management and financial responsibility for the development.

(4) Sufficient organizational stability and capacity to use the Practitioner Fund to achieve scale economies in the development and preservation of affordable housing. Capacity may be demonstrated by substantial successful experience in affordable housing development and management, including successful partnerships with local government entities.

(5) Assets worth at least two hundred million dollars (\$200,000,000), to demonstrate evidence of sufficient net worth for assurance of repayment of the loan.

~~(e) The guidelines and regulations shall establish the minimum criteria required of the practitioner and a point system for rating and ranking responses. The guidelines and regulations shall also provide that, in the event that property acquired with state funds is sold or transferred, for purposes other than affordable housing, any equity not originally contributed by the borrower shall be used for the purposes of this program. The department shall give priority to those respondents who demonstrate an immediate need of funds from the committee, or a commitment to provide the greatest level of affordability for the longest duration.~~

~~50708. (a) The guidelines and regulations for the fund authorized under Sections 50706 or 50707 shall require that before~~

~~(c) The guidelines and regulations, at a minimum, shall do all of the following:~~

~~(1) Establish the minimum criteria required of the practitioner and a point system for rating and ranking responses.~~

~~(2) Provide that any equity not originally contributed by the borrower shall be returned to the state for the purposes of this program, if property acquired with state funds is sold or transferred for purposes other than affordable housing.~~

~~(3) Give priority to those respondents who demonstrate an immediate need of funds from the committee, or a commitment to provide the greatest level of affordability for the longest duration.~~

~~(4) Establish a reasonable practitioner administrative fee.~~

1 (d) Funds not lent by a practitioner within 36 months after their
2 availability to the practitioner shall be disencumbered and
3 transferred to the Loan Fund.

4 (e) The guidelines and regulations shall require that before
5 expending any state funds, the borrower shall obtain binding
6 commitments for at least three dollars (\$3) of nonstate acquisition
7 capital to leverage every dollar of loan funds. To be considered
8 nonstate acquisition capital, those funds shall be committed for a
9 term at least equal to the term of the loan made under ~~Sections~~
10 ~~50706 or 50707~~ this section, and shall be available to be used for
11 the purposes of ~~those sections~~ this section. Equity from the
12 anticipated sale of either federal or state low-income housing tax
13 credits shall not be considered nonstate acquisition capital. If the
14 ~~borrower selected entity~~ is unable to meet these capital leveraging
15 requirements within 180 days after selection, the loan shall be
16 repaid, with accumulated interest, to the department, deposited in
17 the fund, and made available to the next highest rated qualified
18 project sponsor. If, within 270 days after selection, there is no
19 remaining qualified ~~project sponsor~~ applicant available in the case
20 of the Practioner Fund, any unexpended funds shall be made
21 available for the purposes of Section 50706.

22 ~~(b) In its loan agreement with borrowers, the department shall~~

23 (f) The department shall establish a schedule for the timely
24 expenditure of funds by the ~~sponsor~~ applicant. The department
25 may require repayment in the event that a ~~borrower selected entity~~
26 fails to use the funds consistently with the schedule and the other
27 terms of the program.

28 ~~(e) The department may administer this program through a~~
29 ~~notice of funding availability that shall not be subject to Chapter~~
30 ~~3.5 (commencing with Section 11340) of Part 1 of Title 2 of the~~
31 ~~Government Code.~~

32 ~~(d)~~

33 50708. The department shall collect all of the following from
34 each borrower and include a summary of this information in its
35 last annual report submitted to the Legislature on or before
36 December 31, 2013, pursuant to Section 50408:

37 (1)

38 (a) A general description of activities undertaken pursuant to
39 this chapter.

40 (2)

1 (b) For each property acquired, the acquisition price; the amount
2 and terms of the nonstate funds leveraged, and a statement as to
3 whether the state acquisition funds were essential to the leveraging
4 of these other acquisition funds; a description of the expiration
5 date of the project's rent or sales restrictions; the number of assisted
6 units created or preserved; the amount of state funds required for
7 each assisted unit created or preserved; and the level of
8 affordability maintained.

9 ~~(3)~~

10 (c) If any borrower sells any property acquired with assistance
11 through these state funds, a description of the name and location
12 of the purchaser, the purchase price, and the total transaction costs.

13 ~~(4)~~

14 (d) A comparison of the cost of creating or preserving units
15 under Section 50706 with that of Section 50707.

16 ~~(5)~~

17 (e) An overall assessment of the effectiveness of these funds as
18 tools in creating and preserving affordable housing.

19 SEC. 3. Section 53545.9 is added to the Health and Safety
20 Code, to read:

21 53545.9. Of the one hundred million dollars (\$100,000,000)
22 transferred to the Affordable Housing Innovation Fund established
23 in the State Treasury under subparagraph (F) of paragraph (1) of
24 subdivision (a) of Section 53545, the following amounts shall be
25 allocated as follows:

26 (a) (1) The department shall make available the amount of fifty
27 million dollars (\$50,000,000) for the Affordable Housing
28 Revolving Development and Acquisition Program.

29 (2) Of the amount made available for the program, twenty-five
30 million dollars (\$25,000,000) shall be made available for the Loan
31 Fund and twenty-five million dollars (\$25,000,000) shall be made
32 available for the Practitioner Fund.

33 (b) The department shall make available the amount of five
34 million dollars (\$5,000,000) for the Construction Liability
35 Insurance Reform Pilot Program, which is hereby established in
36 the Department of Housing and Community Development. The
37 purpose of the program is to promote best practices for residential
38 construction quality control in housing programs sponsored by the
39 department or the California Housing Finance Agency, as a means
40 of reducing insurance rates for condominium developers in this

1 state. Funds shall be made available in the form of grants for
2 predevelopment costs of condominium projects funded by the
3 department or the California Housing Finance Agency that utilize
4 enhanced construction oversight and monitoring programs and
5 processes including, but not limited to, video recording of the
6 construction process, use of quality control manuals, and increased
7 quality control inspections.

8 (c) The department shall make available the amount of
9 thirty-five million dollars (\$35,000,000) for the local housing trust
10 fund matching grant program established under Section 50843.5.
11 *The department shall make available 50 percent of this amount*
12 *exclusively for newly established housing trust funds.*

13 (1) When awarding grants from the funds allocated under this
14 subdivision to existing trust funds, the department shall grant
15 preference to a housing trust fund that agrees to expend more than
16 65 percent of state funds for the purpose of downpayment
17 assistance to first-time homebuyers.

18 (2) When awarding grants from the funds allocated under this
19 subdivision to newly established housing trust funds, the
20 department shall set aside funding for a period of 36 months from
21 the date funds are first made available for newly established
22 housing trust funds that are in a county with a population of less
23 than 425,000 persons.

24 (d) The department shall make available the amount of five
25 million dollars (\$5,000,000) for the Mobilehome Park Resident
26 Ownership Program established under Chapter 11 (commencing
27 with Section 50780) of Part 2.

28 (e) (1) The School Housing Program is hereby established under
29 the administration of the department.

30 ~~The~~

31 (2) *The* department shall make available the amount of five
32 million dollars (\$5,000,000) for the School Housing Program.

33 ~~(2) The purpose of the program is to establish a pilot program~~
34 ~~of assistance to school districts and community college districts~~
35 ~~attempting to attract and retain district employees through provision~~
36 ~~of on-campus housing.~~

37 ~~(3) Funds shall be made available in the form of loans to school~~
38 ~~districts or community college districts for predevelopment costs~~
39 ~~associated with creating on-campus housing for district employees.~~

1 (3) *The purpose of the program shall be to establish a pilot*
2 *program of assistance to school districts and community college*
3 *districts attempting to attract and retain district employees,*
4 *including, but not limited to, teachers, as well as the provision of*
5 *student housing for students from lower income households,*
6 *through the provision of affordable on-campus housing. Funds*
7 *shall be made available in the form of grants utilizing a request*
8 *for proposal process with a maximum grant amount of one million*
9 *dollars (\$1,000,000) per project. Funds shall be used by school*
10 *districts or community college districts for predevelopment costs*
11 *associated with priority funding for creating on-campus housing*
12 *for district employees, including, but not limited to, teachers, as*
13 *well as on-campus housing for students from lower income*
14 *households.*

15 (4) *Housing built utilizing funds made available under this*
16 *subdivision shall be constructed pursuant to the provisions of*
17 *Senate Bill 668 of the 2007–08 Regular Session, as amended on*
18 *May 16, 2007. If Senate Bill 668, as amended May 16, 2007, is*
19 *not enacted, housing constructed on school property utilizing funds*
20 *made available under this subdivision shall be subject to the*
21 *following provisions, notwithstanding any other provision of law:*

22 (A) *The housing shall not be subject to the Field Act, as defined*
23 *in Section 17281 of the Education Code.*

24 (B) *The Department of General Services shall not be required*
25 *to review plans or construction associated with the exemption to*
26 *the Field Act authorized under subparagraph (A).*

27 (C) *The housing shall be constructed according to the standards*
28 *of the California Building Code.*

29 (D) *For purposes of this paragraph, “housing” means buildings*
30 *constructed solely for the purpose of providing residential housing*
31 *for district staff, teachers, and students.*

32 (5) *The department may administer the program established*
33 *under this subdivision pursuant to guidelines that shall not be*
34 *subject to the requirements of Chapter 6.5 (commencing with*
35 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
36 *Code.*

37 SEC. 4. *This act is an urgency statute necessary for the*
38 *immediate preservation of the public peace, health, or safety within*
39 *the meaning of Article IV of the Constitution and shall go into*
40 *immediate effect. The facts constituting the necessity are:*

- 1 In order to make available at the earliest possible time funds to
- 2 address the state's pressing need for affordable housing, it is
- 3 necessary that this act take effect immediately.